

The meeting opened at 6:30 p.m.

Petition No.: Z-14-30

Premises affected: 64 Summer Street

Petitioner: ZCR Realty Trust

Relief requested: variance from the requirements of Art.VIII, §7.9.4.7 & a special permit under Art. VIII, §7.9 to subdivide a lot with an historic house into 2 & construct a new single family home on the new lot

Present were: Brown (Chair); Bargnesi (Acting Clerk); Oltman, Rechisky and Wilson (Associate Members, sitting in place of Magenheimer, McDonough & Boness).

This is a continued deliberation meeting. Also present were Attorney Mark Johnson for the applicant; Karen Herman, Preservation Commission Chair; Peter Singer, abutter; Mark Ratté, applicant, and his family; and others.

Brown gave an overview of the case & proceedings to dates. He distributed draft findings, specifically the applicability of Section 7.9.4.7 being his main concern. He stated that he does not feel that this proposal meets it and asked for Board input.

Wilson voiced concern with Section 7.9.4.3 (lot frontage, building setbacks for the new lots) being read in 2 different ways: either both lots have to conform or the parent lot must conform to the zoning district (SRA). The Board discussed this section, the dilemma of the creation of the new lot rendering the parent lot non-conforming and the fact that in this case the existing historic structure allows the new lot to be created. Brown summarized for the Board his view of how this section of the bylaw was created, in response to a particular case in which an historic structure was moved to a lot that already contained another historic structure. He emphasized that the bylaw reference to the 'character of the neighborhood' is at the Board's discretion. There was some discussion on the breadth & intent of the bylaw and similar cases with oversized lots or new lots that did not include the parent parcel, as well as the requirement for 2 special permit applications under 7.9.4.7. There was some agreement that the parent parcel must conform to the district's dimensional requirements, both before and after the new lot is created and the new lot containing the historic structure could conform to the modified requirements in 7.9.4.3. The Board considered the definition of 'parent parcel' and the preservation restrictions placed on the historic structure. There was some discussion on the confusing manner in which the bylaw is written and a desire to clarify the language to simplify consideration of future applications.

Oltman made a motion to find that the proposal meets all of the standards & regulations in Section 7.9.4 to the extent applicable. Wilson seconded the motion & the Board voted 1 in favor of making the findings that the proposal meets the standards & regulations (Wilson) and 4 against.

The Board then considered the variance from 7.9.4.7. Brown stated his view that that no hardship exists related to the soil conditions, shape or topography of the land. Wilson inquired about the financial hardship. Brown explained that an economic hardship must still arise from the soil conditions, shape of the lot or topography of the land. There was some discussion on whether the size of a lot equates to shape. Oltman commented that the hardship in this case is self-created. Wilson argued that the cost to renovate the existing historic structure without the dimensional special permit or variance might be prohibitive. Brown argued that the Zoning Board does not make the determination whether or not the structure is to be razed. Wilson pointed out that other houses in the neighborhood have been razed and that this structure is worth saving. Bargnesi commented that the ZBA is not issuing the raze permit, but has been given an ultimatum. Oltman feels that there is insufficient evidence to support a variance. Bargnesi & Rechisky agreed.

Wilson made a motion to grant a variance, with the requisite findings, from the requirements of 7.9.4.7. Oltman seconded the motion. Wilson voted in favor of granting the variance. Brown, Bargnesi, Oltman, & Rechisky voted against granting the variance. (1-4). The motion failed.

Wilson then made a motion to grant a dimensional special permit for historic preservation. Bargnesi seconded the motion. Wilson voted in favor of granting the dimensional special permit for historic preservation. Brown, Bargnesi, Oltman, & Rechisky voted against granting the special permit. (1-4) the motion failed.

Brown will draft the decision and submit it to the administrative secretary for distribution to the Board for review/edits. There being no other business, Wilson made a motion to adjourn the meeting at 7:30 pm. Bargnesi seconded the motion & the Board voted (5-0) to adjourn the meeting.